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OFFICE OF PETITIONS

In re Application of :
Robert Harris et al :
Application No. 10/806,358 : DECISION ON PETITION
Filed: March 19, 2004 :
Attorney Docket No. :
DIA1809-003D :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

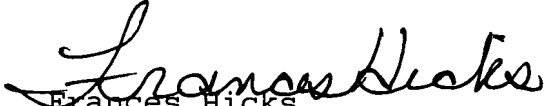
The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 3, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were timely obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on May 4, 2006. A Notice of Abandonment was mailed on September 5, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of \$1,500; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/499,287, filed August 4, 2007.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,020 extension of time fee submitted on August 4, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.


Frances Hicks
Petitions Examiner
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cc:

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